

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

CARDSOFT, INC., and CARDSOFT
(ASSIGNMENT FOR THE BENEFIT OF
CREDITORS), LLC

vs.

VERIFONE SYSTEMS, INC., et al

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CASE NO. 2:08-CV-98-CE

ORDER

Now before the Court is Plaintiffs' motion to amend their infringement contentions as to the Ingenico Defendants.¹ (Dkt. No. 166). Plaintiffs' motion is GRANTED.

Ingenico produced source code relevant to its accused instrumentalities at the end of September, 2009. The source code was largely in French. Nevertheless, Plaintiffs initiated contact seeking an agreement to amend their infringement contentions in February of 2010. Ingenico failed to respond. Plaintiffs again sought agreement to amend infringement contentions beginning in June of 2010. The present motion arises from the parties subsequent disagreement.

Ingenico argues that Plaintiffs have not been diligent, but Plaintiff has shown diligence. Ingenico's own lack of diligence prevented resolution of this issue in February of 2010. The parties agree the amended infringement contentions are of critical importance in this case.

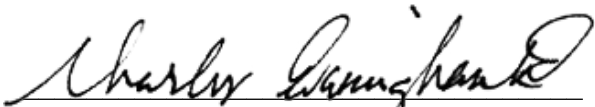
Ingenico argues it would be prejudiced by allowing amendment of infringement contentions. Plaintiffs first sought to amend their infringement contentions approximately 18 months before the scheduled claim construction hearing. They filed the present motion approximately one year before the claim construction hearing. The parties have yet to begin their claim construction briefing. Any prejudice suffered by Ingenico is its own doing. The parties have ample time to prepare for claim

¹ Ingenico S.A., Ingenico Corp., and Ingenico Inc.

construction and trial. No continuance is necessitated by Plaintiffs' amended contentions at this time.

Plaintiffs' motion is GRANTED. Plaintiffs are to serve their amended infringement contentions on the Ingenico Defendants within fourteen days.

SIGNED this 23rd day of February, 2011.


CHARLES EVERINGHAM IV
UNITED STATES MAGISTRATE JUDGE